

MINUTES OF THE SPECIAL JOINT CITY COUNCIL AND
COMMUNITY IMPROVEMENT COMMISSION MEETING
WEDNESDAY- -JULY 26, 2006- -7:00 P.M.

Mayor/Chair Johnson convened the Special Joint Meeting at 7:25 p.m.
Boy Scout Troop 2 led the Pledge of Allegiance.

ROLL CALL - Present: Councilmembers/Commissioners Daysog,
deHaan, Gilmore, Matarrese and Mayor/
Chair Johnson - 5.

Absent: None.

MINUTES

(06-045CIC) Minutes of the Special Joint City Council, Alameda Reuse and Redevelopment Authority, and Community Improvement Commission (CIC) Meetings held on July 5, 2006, and Special CIC Meetings held on July 5, 2006 and July 14, 2006. Approved.

Commissioner deHaan moved approval of the Minutes.

Commissioner Matarrese seconded the motion, which carried by unanimous voice vote - 5.

AGENDA ITEMS

(06-046CIC) Recommendation to award Design-Build Contract in the amount of \$9,104,000 to C. Overaa & Co. for the Civic Center Parking Garage, CIP No. 90-19;

(06-046ACIC) Recommendation to award Construction Contract in the amount of \$8,800,000 to C. Overaa & Co. for Rehabilitation and Restoration of the Historic Alameda Theater;

(06-384CC) Resolution No. 14003, "Authorizing the Execution of U.S. Department of Housing and Urban Development (HUD) Contract for Loan Guarantee Assistance Under Section 108 of the Housing and Community Development Act of 1974, as Amended, 42 U.S.C. Section 5308; Execution of Brownfields Economic Development Initiative (BEDI) Grant Agreement; and Issuance of Section 108 Loan Guarantee Program Variable Rate Note." Adopted; Recommendation to authorize execution of Cooperation Agreement between the City and Community Improvement Commission; and

(06-384ACC) Resolution No. 14004, "Authorizing the Summary Vacation of a Portion of the Central Avenue Public Right-of-Way pursuant to Chapter 4 of the Streets and Highways Codes." Adopted.

The Development Services Director and Development Manager gave a Power Point presentation and provided two documents.

Councilmember/Commissioner Matarrese requested clarification on whether the disability access is for the access only or also an emergency exit for everyone.

The Development Manager responded the ramp serves as the disabled access entry and emergency exit for everyone.

Councilmember/Commissioner deHaan inquired whether dollar saving figures were identified for the western enclosure, wheelchair lift, and roof repair.

The Development Manager responded in the negative; stated savings came out of various divisions for each item; changes in scope were tracked but not the total savings for each item.

Councilmember/Commissioner deHaan inquired whether said savings reduced the base bid.

The Development Services Director responded the savings reduced Overaa's \$9.7 million base bid to \$8.8 million.

The Development Manager stated savings were also realized by seeking out different subcontractors.

Councilmember/Commissioner deHaan stated dollar figures were provided for each parking garage line item; inquired whether dollar figures could be placed on the theater items.

The Development Manager responded dollar figures were not placed on the theater items because the intent was to keep track of the scope in order to get a price that made sense and was within budget.

The Development Services Director continued with her presentation.

Mayor/Chair Johnson inquired whether the marquee line item was for full restoration.

The Development Services Director responded the marquee line item would be for all restoration except re-stenciling the pattern that was under the marquee.

Councilmember/Commissioner deHaan inquired whether the light sequencing would be replaced.

The Development Services Director responded she was not sure

whether the sign could be animated within budget.

Councilmember/Commissioner deHaan inquired whether another scheme reduced the parking garage size to four levels plus the roof.

The Development Services Director responded said scheme was not evaluated but could be a cost savings to the project; stated the project could be constructed within the existing budget if the parking garage size was reduced to four levels.

Councilmember/Commissioner deHaan stated he was leaning towards a five-screen theater and a five-level parking garage, which would provide more seats and might not jeopardize retail as much; numbers could be extrapolated to reduce the cost by \$2 to \$2.5 million.

The Development Services Manager continued with her presentation.

Councilmember/Commissioner deHaan inquired whether the HUD loan had certain parameters.

The Development Manager responded job generation is one of the major criteria.

The Development Services Director stated the HUD program no longer exists.

Councilmember/Commissioner Daysog inquired whether an increase in retail square footage would increase jobs.

The Development Services Director responded possibly; stated the HUD application cannot be re-evaluated and re-ranked at this time.

Vice Mayor/Commissioner Gilmore stated the City risks losing \$7 million in HUD funding if the City gets too far away from the approved project parameters.

The Development Services Director stated the developer has agreed to take on all the operating costs for the Historic Theater because of the Disposition and Development Agreement (DDA) conditions and projected revenue generation; funds would need to be taken out of the General Fund if the City took over operation and maintenance.

Councilmember/Commissioner deHaan inquired whether deferred interest was one of the benefits of the HUD loan.

The Development Services Director responded that the City received a \$800,000 deferred interest grant; the grant money would be used to make payments in the first few years until the project earns

income.

Councilmember/Commissioner deHaan inquired what was the interest rate, to which the Development Services Director responded 5.75%.

Councilmember/Commissioner deHaan inquired whether the HUD funding would be lost with Scheme 2 because there would not be enough job generation.

The Development Services Director responded the issue is not just job generation; stated there are also public and private leverage considerations; losing the Cineplex would take away the minimum guarantee of \$1.2 million in furniture, fixtures, and equipment (FFE) and \$5.2 million in private developer capital.

Councilmember/Commissioner deHaan inquired whether making the assumption that HUD funding would not be completely gone would be appropriate at this point [Scheme 2], to which the Development Services Director responded that she would not make the assumption.

The Development Services Director continued with her presentation.

Councilmember/Commissioner deHaan stated the Scheme 3 parking garage cost increased by almost \$11 million.

The Development Services Director stated the Scheme 3 parking garage increased to 540 spaces.

Councilmember/Commissioner deHaan stated a certain amount of money could be saved immediately because a quarter of the Elks' parking lot is already leased by the City.

Mayor/Chair Johnson inquired whether the Elks have ever indicated an interest in selling the property to the City.

The Development Services Director responded the Elks considered entering into a transaction if the City rebuilt the gymnasium.

Mayor/Chair Johnson inquired whether the Elks would transfer property to the City, to which the Development Services Director responded she did not know.

Councilmember/Commissioner deHaan stated he is concerned that said discussions did not take place.

The Development Services Director continued with her presentation.

Councilmember/Commissioner deHaan stated that the \$15 million

Scheme 5 parking structure cost is overstated because the parking structure would not be as elaborate.

Mayor/Chair Johnson inquired whether the \$15 million cost included acquisition, to which the Development Services Director responded in the affirmative.

Mayor/Chair Johnson opened the public portion of the Hearing.

Proponents (In favor of the staff recommendation): Harry Dahlberg, Economic Development Commission; Lars Hanssen, Park Street Business Association (PSBA); Michael J. Krueger, Alameda; Susan Decker, Alameda; Pauline Kelley, Alameda; Duane Watson, Alameda; Barbara Marchand, Alameda; Harry Hartman, Alameda; Walt Jacobs, Alameda Chamber of Commerce; Melody Marr, Alameda Chamber of Commerce (read list of 17 names); Norma Henning, Alameda; Robb Ratto, PSBA.

Opponents (Not in favor of the staff recommendation): Woody Minor, Alameda; Ani Dimusheva, Alameda; Joe Meylor, Alameda (submitted handout); Pat Bail, Alameda; David Kirwin, Alameda; Janet Gibson, Alameda; Judith Lynch, Historical Advisory Board; Kristianne Koenen, Alameda; Kevin Fredrick, Alameda.

There being no further speakers, Mayor/Chair Johnson closed the public portion of the Hearing.

Councilmember/Commissioner Daysog thanked staff for providing alternatives; stated he prefers Scheme 2 where the attention is focused on reusing the Historic Theater and having a smaller garage; he understands that Scheme 2 poses a risk of losing \$7 million in HUD loans; theater jobs would be lost, but retail jobs would increase; the City takes pride in running public enterprises; he thinks the City could do a good job of operating the Historic Theater and a smaller parking garage; the operation of the theater entails public subsidy under the status quo scenario; rent would be approximately 40 cents per square foot for the Historic Theater; the market rate for a new operating theater is approximately \$1.50 per square foot; the City should get more than 40 cents per square foot; the City is losing out on the differential in rent; he sees Scheme 2 as a smaller scaled, hometown movie theater; the Historic Theater should be restored to the full potential that the citizens want; questioned whether cuts might ruin the historic quality.

Mayor/Chair Johnson inquired how the square foot price was determined for the Historic Theater.

The Development Services Director responded cost comparisons were done against brand new, first-run construction at \$1.30 per square

foot average; the budget starts out with a lease rate of \$72,000 per year for years one through six; the rate jumps to \$156,000 per year for years seven through ten; the rate would be based on the CPI starting in year eleven, with a 3% floor and 5% ceiling; the developer would be required to make a \$1.2 million FF&E commitment; the operating costs would be very slim in the first six years, especially when there is a FF&E load to retire; a 17% profit participation has been included in the event the project stabilizes at a higher rate than estimated; the City would share in percentage rent if the project produces better than expected; the City would receive payments just about equal to what the developer and investors are getting.

Mayor/Chair Johnson inquired whether the profit participation continues throughout the lease.

The Development Services Director responded the profit participation is reduced to about 12% at the time the first loan is repaid.

Mayor/Chair Johnson inquired whether the square footage rate is a minimum rental amount, to which the Development Services Director responded in the affirmative.

Councilmember/Commissioner Daysog stated that translating items into square foot terms would not overcome the existing difference of 90 cents per square foot; related discussions were held last August; he would rather get the money up front.

The Development Services Director stated the City is leveraging a minimum of \$5.3 million in private investment as a result of the agreement.

Councilmember/Commissioner Daysog stated said investment contributed to the division within the community.

Councilmember/Commissioner deHaan stated there was a \$4.5 million delta between the bids; the project includes the Cineplex, Historic Theater and parking garage; inquired whether there was a guarantee that the Cineplex financing was in place now.

The Development Services Director responded that the developer has a commitment for construction and permanent financing; the Bank of Alameda extended the commitment for six months; the developer has raised \$2 million of additional equity and is trying to finalize the construction bids; the developer is planning to apply for permits in early September.

Councilmember/Commission deHaan inquired whether staff received documents verifying that the financing is in place.

The Development Services Director responded the City has a copy of the loan commitment; the appraisal and placement of the equity into the loan are the only contingencies left on the loan commitment.

Councilmember/Commissioner deHaan stated the Cineplex and the parking garage property line has been pushed four to five feet on Oak Street and dog legs out.

The Development Services Director stated the sidewalk dog legs out; the City performed a survey of the property; the property showed that the public sidewalk encroached six feet onto the private property; originally a bulb out at the corner and removing the parking on the City's portion of the parcel was contemplated for a variety of traffic safety and pedestrian concerns; originally, the bulb was to be fourteen feet wide and would now be ten feet wide; the average downtown sidewalk is eight feet wide.

Councilmember/Commissioner deHaan inquired whether the sidewalk would be four-feet without the bulb out.

The Development Services Director responded the sidewalk would be six feet because the property line would be set back two feet.

Councilmember/Commissioner deHaan stated that he is concerned about the massive walls in the area; inquired why substituting surety bonds was pulled off the agenda and whether the matter was relevant to tonight's discussion.

The Development Services Director responded that the staff recommended that the \$200,000 offset come from the division's operating fund for salaries.

Mayor/Chair Johnson inquired whether tonight's discussion on the theater budget included everything, to which the Development Services Director responded in the affirmative.

Councilmember/Commissioner deHaan commended staff for making \$4.5 million in value engineering reductions; stated there is slim to no wiggle room in case a problem arises; inquired whether a 15% contingency is adequate.

The Development Services Director responded staff recommends reducing the contingency to 5% for the garage and 13% for the theater; stated \$250,000 has been budgeted for soil conditions; testing has been done; she hopes to add back the contingency after

construction has started; she feels adequately protected.

Councilmember/Commissioner deHaan stated \$5 million was to be set aside for the catalyst Webster Street project; the money is out of the budget now; inquired how the project would be funded.

The Development Services Director responded there are a number of ideas for funding the project; stated \$13.5 million was raised to retire the Marina Village infrastructure obligations; the Marina Village project had a repayment of \$2.5 million to the General Fund load; \$2 million was given to the Library Project; another \$2 million has been used in the operation of the theater project; staff has requested that the \$1 million coming back from the Library project be distributed back to the theater project; other opportunities include replacing cash reserves and renegotiating the Catellus Project which has uncommitted tax increment and land proceeds.

Councilmember/Commissioner deHaan inquired whether the West End generated all the bond funding.

The Development Services Director responded 48% came from Business Waterfront Improvement Project (BWIP) and 52% came from the West End.

Councilmember/Commissioner Daysog moved approval of directing further analysis of Scheme 2.

Councilmember/Commissioner deHaan stated various schemes were revisited because other options needed to be reviewed; the schemes need to be revisited in case the City is unable to value engineer the project back in line; possible cost savings are obvious and provide for more leeway in case there is a problem.

Councilmember/Commissioner deHaan seconded the motion.

On the call for the question, THE MOTION FAILED by the following voice vote: Ayes: Councilmembers/Commissioners Daysog and deHaan - 2. Noes: Councilmembers/Commissioners Gilmore and Matarrese and Mayor/Chair Johnson - 3.

The Development Services Director stated concerns need to be reiterated regarding a smaller project; ground rent and revenue would be reduced.

Councilmember/Commissioner deHaan stated the project cost could be reduced by \$3 million to \$4 million with a five-screen theater and a five-level parking garage; the equation would be changed

minimally; stated Councilmember/Commission Daysog requested that options be reviewed.

Vice Mayor/Commissioner Gilmore stated the City would not need to contribute approximately \$2 million if an operator would not operate the Historic Theater and provide the maintenance; the maintenance cost would come out of the General Fund and would have no cap.

Councilmember/Commissioner Matarrese stated that he looks at the alternatives as fall backs; he is pleased that the theater has been acquired; concurred with Councilmember/Commissioner Daysog regarding restoring the Historic Theater as much as possible; stated the Historic Theater is a civic treasure; he is nervous about construction in a historic building and the contingency dropping from 15% to 13%; he has some comfort in that the value engineering process lessens the risk of the 2% contingency reduction; he is interested in what other funds might be available to provide more comfort; the main cost of the project is the Historic Theater; he is willing to support the staff recommendation.

Vice Mayor/Commissioner Gilmore stated the City does not own the Elks' parking garage or the U.S. Bank parking site; the City has not discussed acquiring either site with the property owners; parcel costs go up once the City expresses interest in purchasing a parcel; construction costs are escalating; the City would be running the risk of not having dollars in place to acquire the property, going through the design review process, and building a parking structure on either site.

Mayor/Chair Johnson stated other funding sources should be reviewed in the event that extra costs are incurred; concurred with Councilmembers/Commissioners Daysog and Matarrese regarding restoring the Historic Theater to the greatest extent that the City can afford; stated the City needs to be prepared for possible extra costs before starting the parking structure; she was happy to see that the City of Oakland was going forward with the restoration of the Fox Theater; the restoration does not appear to be a theater project; the City of Oakland is contributing \$57 million to renovate the Fox Theater; she is happy that the Historic Theater is being renovated as a theater and is owned by the City; her personal preference would be to restore the Historic Theater as a single-screen theater; Council needs to be responsible for how much public money is spent; she would support a motion to support the staff recommendation.

Vice Mayor/Commissioner Gilmore stated there is an "Other Costs"

line item for the parking garage and theater rehabilitation; the line item for the parking garage is over \$1.4 million and over \$1.8 million for the theater; a cost breakdown was provided for both line items; the document is available as a public document.

Mayor/Chair Johnson inquired whether phasing is planned for the theater restoration.

The Development Services Director responded the construction project would start within the next 30-45 days; stated the Historic Theater construction will be the most time consuming; the plan would be to do the garage and then the Historic Theater; the Cineplex would start two to three months later; the entire project should be completed within a year and a half; a \$3 million grant application was submitted to the State for historic preservation money; high marks were received except in one category; she does not think that one evaluator understood the financial statement; the grant would be resubmitted and she is optimistic about receiving the grant.

Councilmember/Commissioner Daysog stated that the point of his failed motion was to further analyze Scheme 2; costs are involved with a stand alone, three-screen theater; cautioned colleagues from using scare tactics such as General Fund dollars subsidizing the project; stated the Golf Complex, ferry system, electric and cable systems are all self-funding enterprises; revenue would be generated through retail which could help towards running the theater; options need to be vetted.

Vice Mayor/Commissioner Gilmore stated she brought up the General Fund because dollars coming from tax increment redevelopment funds cannot be used to pay maintenance costs; she did not intend her statement to be a scare tactic, but only to address how things work.

Councilmember/Commissioner Daysog stated there are other revenue opportunities such as the retail square footage.

Councilmember/Commissioner deHaan stated the City is doing the project to revitalize Park Street; the theater would bring more retail activity in the Park Street area and would help generate revenue; revenue does not have to come directly from the theater project.

The Development Services Director stated she would hope that tax increment would be received.

Councilmember/Commissioner deHaan stated the catalyst project would

generate a tax funding stream.

Councilmember/Commissioner Matarrese concurred with Councilmember/Commissioner deHaan regarding the theater project revitalizing Park Street; stated the theater project revitalizes the whole City, puts money into the tax increment pool, and captures a lot of the money that goes off the island; the theater project is the best, real bonafide option to reopen the building as a theater, revitalize the historic business district, and keep a lot of discretionary dollars in the City.

Councilmember/Commissioner Matarrese approval of the staff recommendations [including the Development Services Director's recommendation that \$200,000 come from the Development Services operating fund salaries] and adoption of the resolutions.

Vice Mayor/Commissioner Gilmore seconded the motion.

Under discussion, Councilmember/Commissioner deHaan stated that he would not vote in favor of Councilmember/Commissioner Matarrese's motion; the project is now in a situation where the massing and the scale is disproportionate; Oak Street traffic would be impacted; he does not mean to infer that he does not support the Historic Theater, the Cineplex and parking garage in some form; the project got larger than life on a postage stamp piece of property; the wheelchair lift elimination should be reconsidered; said elimination would be the death for twelve public uses of the theater per year.

Councilmember/Commissioner Matarrese requested staff to provide wheelchair lift rental costs so that the public can be assured that a wheelchair lift would be provided for public use of the theater.

The Development Manager responded wheelchair lift rental is standard practice; stated the intent is to have a wheelchair lift available for the twelve public days.

Councilmember/Commissioner deHaan inquired what would be the cost to put the wheelchair lift back in as a line item, to which the Development Manager responded approximately \$80,000.

Mayor/Chair Johnson recommended that the motion include direction for staff to provide the cost and budget source for the rental of a wheelchair lift.

Councilmember/Commissioner Matarrese and Vice Mayor/Commissioner Gilmore agreed to amend the motion to include Mayor/Chair Johnson's recommendation.

On the call for the question, the motion carried by the following voice vote: Ayes: Councilmembers/Commissioners Gilmore, Matarrese and Mayor/Chair Johnson - 3. Noes: Councilmembers/Commissioners Daysog and deHaan -2.

(06-047CIC) Recommendation to authorize substitution of Surety Bond for 2003 Merged Area Bond Issue Cash Reserve Account consistent with Bond Indenture. **Withdrawn.**

Chair Johnson announced that the matter was withdrawn from the agenda.

ADJOURNMENT

There being no further business, Mayor/Chair Johnson adjourned the Special Joint Meeting at 10:05 p.m.

Respectfully submitted,

Lara Weisiger, City Clerk
Secretary, Community Improvement
Commission

The agenda for this meeting was posted in accordance with the Brown Act.